

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CREIGHTON TAKATA, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

RIOT BLOCKCHAIN, INC. F/K/A
BIOPTIX, INC., JOHN O'ROURKE,
JEFFREY G. MCGONEGAL, BARRY
HONIG, CATHERINE DEFRANCESCO,
MICHAEL BEEGHLEY, JOHN STETSON,
MARK GROUSSMAN, ANDREW
KAPLAN, MIKE DAI, JASON LES,
and ERIC SO,

Defendants.

Civ. Action No. 18-02293 (FLW)

ORDER

THIS MATTER having been opened to the Court on the following motions brought by the defendants, appearing through counsel (“Defendants”),¹ to dismiss the Corrected Consolidated Amended Class Action Complaint (the “Complaint”), which was filed by the lead plaintiff, Stanley Golovac (“Lead Plaintiff”): (1) ECF No. 107 by Riot Blockchain, Inc., Michael Beeghley, John O’Rourke, and Jeffrey McGonegal; (2) ECF No. 108 by Andrew Kaplan, Eric So, and Jason Les; (3) ECF No. 112 by Catherine DeFrancesco; (4) ECF No. 118 by Barry Honig; (5) ECF No. 131 by Mark Groussman; (6) ECF No. 132 by Mike Dai; and (7) ECF No. 134 by John Stetson; it appearing that Lead Plaintiff, through his counsel, opposes Defendants’ motions to dismiss [*see* ECF Nos. 136, 153]; it further appearing that Lead Plaintiff requests leave to amend the Complaint in the event any of Defendants’ motions are granted [*see* ECF No. 153 n. 39]; it further

¹ The defendants who are named in this action are: Riot Blockchain, Inc., Michael Beeghley; John O’Rourke; Jeffrey McGonegal; Andrew Kaplan; Eric So; Jason Les; Catherine DeFrancesco; Barry Honig; Mark Groussman; Mike Dai; and John Stetson.

appearing that several Defendants have submitted the following related motions: (1) a motion to strike improper allegations and images from the Complaint [ECF No. 111]; (2) a motion to strike the declaration of Joseph J. De Palma, including all exhibits attached thereto, in support of Lead Plaintiff's omnibus opposition to Defendants' motions to dismiss [ECF No. 144]; and (3) two separate motions for leave to file sur-replies in support of Defendants' motions to dismiss the Complaint [ECF Nos. 161, 162]; and the Court having considered the parties' submissions in connection with these motions, without oral argument pursuant to Fed. R. Civ. P. 78; for the reasons set forth in the Opinion filed on this date, and for good cause shown,

IT IS on this 30th day of April, 2020,

ORDERED that Defendants' motion to strike the declaration of Joseph J. De Palma, including all exhibits attached thereto, in support of Lead Plaintiff's omnibus opposition to Defendants' motions to dismiss [ECF No. 144] is **GRANTED**; and

FURTHER ORDERED that Defendants' motions for leave to file sur-replies in support of Defendants' motions to dismiss the Complaint [ECF Nos. 161, 162] are **GRANTED**; and

FURTHER ORDERED that Defendants' motions to dismiss [ECF Nos. 107, 108, 112, 118, 131, 132, 134] are **GRANTED** and Lead Plaintiff's claims are dismissed, pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure; and

FURTHER ORDERED that Defendants' motion to strike improper allegations and images from the Complaint [ECF No. 111] is **DENIED** as moot; and

FURTHER ORDERED that Lead Plaintiff's cursory request for leave to amend is **DENIED**; however, Lead Plaintiff may file a separate motion for leave to file an amended complaint, which proposed complaint shall be part of the motion and consistent with the Opinion being filed on this date, within thirty (30) days of the date of this Order.

IT IS SO ORDERED.

/s/ Freda L. Wolfson
Hon. Freda L. Wolfson
U.S. Chief District Judge